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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,123	03/22/2001	Derk J. Hogenkamp	1861.1270001/JMC/THN	2060

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EXAMINER

SHAMEEM, GOLAM M-

ART UNIT

PAPER NUMBER

1626

DATE MAILED: 07/01/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED

JUL - 5 2002

MA JUL 5 2002  
SMC GOLAM M  
THN 7/12/02

Restriction due August 1, 2002  
Stat Bar January 1, 2003

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/814,123	HOGENKAMP ET AL.
Examiner	Art Unit	
Golam M M Shameem	1626	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 May 2002.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-27 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

This office action supersedes the previous office action of paper No. 4 which has been entered in the file.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14 and 17, drawn to a compound and composition of formula I, classified in classes 548 and 514 with plethora of subclasses.
- II. Claims 1, 15-17 and 24, drawn to a compound and composition of formula I, classified in classes 548 and 514 with several subclasses.
- III. Claims 18-21 and 27, drawn to a method of treating a disorder, classified in class 514 with various subclasses.
- IV. Claims 22-23, drawn to a compound of formula I, classified in class 548 with few subclasses.
- IV. Claim 25, drawn to a compound of formula I, classified in class 548 with few subclasses.
- IV. Claims 26, drawn to a compound of formula I, classified in class 548 with few subclasses.

The inventions are distinct, each from the other because of the following reasons:

The above groups are identified as general areas. Accordingly, as groups they are independent or distinct as the products (compounds and composition) of groups and would be capable of more than one use. For example, the products of group I and III differ materially so as to be patentably distinct. Additionally, besides performing a class/subclass search, the examiner

performs a commercial data base search and an automated patent system (text) search. Moreover, to not restrict would impose a burden in the examination of this application.

The above groups themselves are inclusive of patentably distinct subject matter. Accordingly, along with the election of one of the above groups, the following action is also taken.

Group I-VI comprising claims which are generic to a plurality of disclosed patentably distinct species and applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 (a) of the other invention.

Upon the election of a single disclosed species, a generic concept inclusive of the elected species will be identified by the Examiner for examination along with the elected species.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A telephone call was made to Mr. John Covert on 6/20/02 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

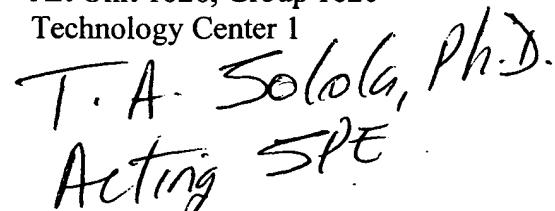
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Golam Shameem, Ph.D. whose telephone number is 703-305-0116. The Examiner can normally be reached on 8:30AM-5:00 PM, M-F.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 703-308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7921 for regular communications and 703-308-7921 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Golam M M Shameem, Ph.D.  
Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1  
June 21, 2002

  
Joseph P. McKane  
Supervisory Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1

  
T. A. Solola, Ph.D.  
Acting SPE